IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7062 OF 2005

Smt.Seema Ramesh Kamath
and Ors. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.Nitin Pradhan with Mrs.S.D.Khot and Moheen Pradhan for applicants
Mrs.S.D.Shinde, A.P.P. for State

CORAM : S.C.DHARMADHIKARI, J.
DATE : 17th November 2005.

P.C.

. Heard Mr.Pradhan, learned Counsel

appearing for applicants and Mrs.Shinde, A.P.P. for State. Perused the application and annexures thereto.

2. It appears that the present applicants are being proceeded against because they are employees of Shamrao Vitthal Coop.Bank. Complainant has a grievance not against the present applicants or the bank but against his partners Mr.Hitesh and Harshad Vora. Complaint was filed to this effect in the court of Judicial Magistrate, First Class, Panvel and the offences alleged are that the partnership business which was carried on by complainant as well as accused resulted in withdrawal of an amount of Rs.10,19,593/- from Shamrao Vitthal Bank. Applicants are employees of the said bank. Complaint alleges offences punishable under section 406, 420, 467, 428 of I.P.C. However, it appears that a criminal writ petition was filed in this Court being W.P.No.1705 of 2005 invoking

Article 227 read with Section 482 of Cr.P.C. to quash and set aside an order dated 4th September 2004 in the aforesaid complaint whereunder the account came to be frozen. During the course of the said proceedings, petitioner in the said petition pointed out that he is not liable to pay any amount to the bank which was impleaded as respondent No.7 therein and that amount is allegedly withdrawn from the account of M/s.United Associates with whom the petitioner in criminal writ petition has some dispute.

3. In para 16 of the present application, it is contended that during the hearing of aforesaid petition, police officers attached to Panvel police station intimated applicants that they are likely to arrest some bank officials.

4. Apprehending arrest, applicants immediately approached sessions court of Alibaug by way of criminal misc.application No.670 of

2005 praying for anticipatory bail. Said application was rejected by the Sessions Judge by a cryptic finding that this is an incident of white collor crime. These are economic offenes and the bank offers acted contrary to banking practice and rules. Sessions Judge dismissed the application in the light of the aforesaid findings. Present application is filed for anticipatory bail as also for quashing and setting aside the order passed by the sessions court.

5. Mr.Pradhan states that the applicants who are employees of the bank have absolutely no connection with the internal disputes of partners so also they have no connection insofar as the dispute that the complainant has with the bank. Merely because they are employees of cooperative bank they cannot be dragged in a criminal prosecution, more so, when the entire dispute is civil in nature.

6. Mrs.Shinde, appearing for prosecution states that as of today there is no complaint filed against the applicants with Panvel police station. There is no question of applicants being, therefore, arrested and proceeded with.

7. In the light of the statement made by Mrs.Shinde that local police station has not registered any offences against the applicants, it is not necessary to pass any orders in the present application. Needless to observe that in case any such complaint is registered hereafter, it would be open for applicant to move appropriate court for identical reliefs and in case any such application is filed in the sessions court for anticipatory bail, the same shall be dealt with on its own merits and in accordance with law, uninfluenced by the observations made in the order dated 19th October 2005.

8. Statement made by Mrs.Shinde is on the instructions of Mr.Avinash Patil, A.P.I. Panvel Police station who is personally present in court. Mrs.Shinde states that 72 hours prior notice would be given to the applicants in case respondents decide to take any action against them.

(S.C.DHARMADHIKARI, J)